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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,101	03/13/2006	Thomas Geisel	10537/300	1109
26646 7590 06/24/2008 KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004				
EXAMINER PASCHALL, MARK H				
ART UNIT		PAPER NUMBER		
3742				
MAIL DATE		DELIVERY MODE		
06/24/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/542,101

Applicant(s)

GEISEL ET AL.

Examiner

Mark H. Paschall

Art Unit

3742

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 10 is/are allowed.
- 6) ☒ Claim(s) 6-9 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 6-9,11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Either Faust et al 5,934,748 or De 19703516, in view of Inoue 024'. Both DE and Faust et al teach the claimed heating and ventilation of a seat, see Abstract in DE and see column 4 in Faust et al, depicting ventilation above a set seat temperature and heating below a set seat temperature. The patent to Inoue et al is applied for teaching seat heating and ventilation, with sensing of the outdoor temperature, as claimed. Use of the same leads to more accurate seat temperature control and in view of this teaching it

would have been obvious to modify either of Faust et al or DE, with outdoor temperature sensing, as claimed, to afford more accurate temperature control of the seat.

Allowable Subject Matter

Claim 10 is allowed.

Response to Arguments

Applicant's arguments filed 3-11-2008 have been fully considered but they are not persuasive. Contrary to the remarks advanced, DE 516' and Faust et al both teach a control system for controlling the temperature of a seat by either ventilating the seat to cool the same or heating the seat to heat the same. See line 5 in the abstract of DE which defines , "ventilation and heating unit", and see lines 2-3 in the Faust abstract which states, "Ventilation device for ventilating the cushions as well as a heating device for heating the cushions". Clearly, a control system for controlling the temperature of a seat by both heating and ventilating (cooling), is defined as conventional by the prior art.

The claims reflect the same and deviate from the prior art teaching by defining use of an outdoor temperature sensor for controlling the temperature, whereas the applied references teach use of a temperature sensor on the seat surface or the inside ambient temperature of the seat. In this respect, the patent to Inoue was applied for teaching use of an outdoor sensor to control the seat temperature. See paragraphs 22-25 and 29 in Faust et al which define use of an outdoor temperature sensor to control the heating and ventilation of the seat via heat exchanger control. Albeit, this control is

in addition to use of the inside temperature sensors, but the claims, as presented, do not preclude this interpretation. The patent to Inoue et al is relied on merely for teaching use of an outdoor sensor to control the temperature inside the vehicle, and it is submitted that one of ordinary skill in heating of a vehicle would have been motivated to use an outdoor sensor to control the temperature in both of the DE and Faust et al systems, since Inoue et al define the advantage of enhanced temperature control in the vehicle, using outdoor temperature sensing. Contrary to Applicants arguments, the patent to Inoue et al is relied on for merely teaching use of outdoor temperature sensing as a control parameter, use for controlling the temperature of a seat, with the prior art teaching only use of inside or seat temperature for the control.

Applicants should note that the claims are silent as to use of both indoor and outdoor temperature sensing. Also the claims are silent as to whether or not the first temperature threshold is in fact different from the second temperature threshold. If these thresholds are the same, the claims limitations are much broader than claim limitations advanced by the Applicants.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark H. Paschall whose telephone number is 571 272-4784. The examiner can normally be reached on 7am - 3pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Mark H Paschall
Primary Examiner
Art Unit 3742

Mp

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Primary Examiner, Art Unit 3742